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UNCLAS SECTION 01 OF 03 PRETORIA 004548

SIPDIS

DEPARTMENT FOR AF/RSA, AF/S, AND G/TIP

E.O. 12958: N/A

TAGS: PHUM EAID PREL KCRM KJUS KWMN SF

SUBJECT: INTERIM TIP ASSESSMENT FOR SOUTH AFRICA

REF: A. PRETORIA 04390

B. PRETORIA 04353

C. PRETORIA 04294

D. PRETORIA 04249

E. STATE 188708

F. PRETORIA 03890

G. STATE 136651

H. PRETORIA 00947

11. (SBU) Summary: South Africa has identified the trafficking problem, is taking real steps, and is having results. The National Assembly has passed the Children's Bill, and the government continues to push the "Anti-Trafficking" and "Sexual Offenses" bills through the legislative process. Prosecutions of traffickers for related offenses under existing laws continue despite legal attacks, and South African law enforcement's embrace of training has empowered officers to start numerous investigations of suspected trafficking cases (refs B and D). Although the SAG does not have specialized programs for child prostitution victims, it continues to financially support the network of shelters that care for these children. Government owned media have devoted considerable air-time to trafficking, and the SAG plans to include this issue in its prestigious annual "Violence Against Women and Children" public awareness campaign. The South African Police Service (SAPS) continued its commitment to punish corruption and the Department of Home Affairs dismissed and prosecuted many corrupt officials under its new Minister's "turnaround strategy". End Summary.

Status of National Legislation

12. (U) The SAG has made progress on Action Plan items concerning TIP related legislation. On June 22, the National Assembly passed the Children's Bill, which specifically bans the trafficking of children and exceeds UN Protocol on Trafficking in Persons protections by including adoptions facilitated or secured through illegal means in its definition of trafficking. The bill is currently in Committee in the National Council of Provinces, and is expected to be adopted in the February 2006 session. Some traditional leaders in Kwa-Zulu Natal, including King Goodwill Zwelithini, view the proposed bill's banning of virginity testing as an infringement of cultural rights such as the annual Zulu Reed Dance. Despite this opposition, the Government continues to push for the bill's passage.

13. (U) The South African Law Reform Commission (SALRC) "Discussion Paper" on trafficking in persons, which will include draft legislation, is expected to be released for public comment in either January or early February 2006. The SALRC's final report, incorporating comments received, will be submitted to the Department of Justice and Constitutional Development, which will be responsible for moving the legislation forward. The proposed legislation would incorporate the child trafficking legislation resulting in one comprehensive law against human trafficking.

14. (U) The National Assembly's Portfolio Committee on Justice debated the "Sexual Offenses Bill" recently, and referred the draft to the Department of Justice and Constitutional Development for further review. (Note: This bill is Chapter Five of the comprehensive Criminal Law Amendments Bill overhauling significant portions of South Africa's criminal code, thus its progress is difficult to predict. End Note)

Arrest and Prosecution of Traffickers

15. (SBU) South African law enforcement officials continue to successfully arrest and prosecute traffickers under existing laws. For example, the trial of "Ranch" owner Andrew Phillips for procuring and living off the proceeds of prostitution, will resume on November 28 (ref H). This prosecution is continuing despite Phillips' attempts to have the charges dismissed on technicalities.

16. (SBU) Although there are no reports of new prosecutions of traffickers initiated since June 2005, the International Organization for Migration (IOM) says a number of

investigations are ongoing. Most investigations are conducted by officers made aware of the trafficking issue through training sessions provided by IOM and INL. In August, two Johannesburg Metropolitan Police (JMPD) officers who had received INL training arrested a school bus driver for supplying schoolgirls for prostitution. The JMPD arrested the driver, and the South African Police Service (SAPS) booked him on charges of abduction. Unfortunately, they were unable to pursue the case to conclusion because the alleged victims recanted their original statements (ref D). While the outcome of this particular investigation was unfortunate, the JMPD officers' initiative in arresting the alleged trafficker under existing laws is an example of increased awareness after receiving training. To further facilitate this growing awareness and initiative, the SAPS, the National Prosecuting Authority's (NPA) Directorate for Special Prosecutions (the "Scorpions"), and the Department of Home Affairs all have embraced training programs for their staff, as recommended in the Action Plan (refs B and G).

Protection Services for Children

17. (U) The SAG financially supports shelters for children suffering from abuse, but does not provide specialized assistance for child prostitution victims. According to IOM, police officers normally refer victims, including trafficking victims, to local shelters. To improve coordination, IOM has worked with South African NGOs to create a network of shelters, financed largely by the government, in Cape Town, Johannesburg, and Durban trained to assist women and children who are trafficking victims (ref B). South Africa's gender rights movement praises the SAG's commitment to helping women and children, and this form of partnership between government and civil society is a common strategy to enhance services despite insufficient resources (ref F).

Public Awareness of Trafficking

18. (SBU) The SAG has enlisted the NGO Solo Mongolo to incorporate a campaign on trafficking of women and children into the Government's prestigious annual "Violence Against Women and Children Campaign" that will be held between November 25 and December 10 (ref C). This campaign is the centerpiece of SAG media projects promoting gender and children's rights, and the inclusion of trafficking signals the Government's continued and growing commitment to raise public awareness of the issue.

19. (U) Beginning in January 2006, the NPA's Sexual Offenses and Community Affairs unit will launch an EU funded (6 million Euro) anti-trafficking project focused on conducting public awareness campaigns. According to the EU project document, the awareness campaign strategies, "will be adapted to the cultural context and will be extended to other countries in the region to prevent trafficking at its source."

110. (U) In addition to the upcoming Violence Against Women and Children Campaign, government owned radio and TV. stations have actively supported IOM's efforts to publicize the trafficking issue (ref B). In one recent example, the youth oriented talk show, Take 5, devoted a program to trafficking in persons. The South Africa Broadcasting Corporation broadcast this episode twice. Such support has helped produce increased public awareness of South Africa's trafficking problem among government officials, law enforcement, local NGOs, and the general public. As a result, IOM claims there is greater public understanding of the difference between trafficking and smuggling, and there has been a measurable increase in the use of IOM's hotline to provide tips on possible cases (ref B).

Combating Fraud and Corruption

111. (U) The SAG continues to vigorously punish and prosecute corruption, even in politically sensitive cases like that of former Deputy President Jacob Zuma. The SAPS, under its Corruption and Fraud Prevention Strategy, disciplined 461 officers between April 2004 and March 31st 2005 according to its recently released Annual Report. Likewise, as part of its new Minister's "turnaround strategy", the Department of Home Affairs improved attempts to deal with corruption among its officials. On July 18, Minister Nosiview Mapisa-Nqakula announced that 80 officials had been charged with corruption, and 66 senior officials were dismissed for misconduct since April 2004.

Interviewing of Migrants

12. (SBU) IOM's training programs have enabled many immigration and rural law enforcement and immigration officials to identify and properly question trafficking victims (ref B). During a July 2005 UNICEF conference in Johannesburg, the Somali delegation was held at the airport for part of the day because officials there were suspicious that the children may have been trafficked. Although this was a false alarm, the incident does illustrate a greater awareness of potential trafficking victims. Unfortunately, while IOM says local law enforcement's ability to question migrants has improved, the lack of national coordination and procedures on trafficking still often leads to deportation of victims before they are able to give evidence in court. IOM mentioned the case of police officers near Komati Port who identified trafficked victims, but because they did not know where to refer them to, deported these people.

Comment

13. (SBU) South Africa's anti-trafficking efforts reflect the government's increased awareness of the problem and commitment to combat it. The lack of specific anti-trafficking legislation and national procedures continues to hamper law enforcement's efforts. However, the government is actively moving these bills through the legislative process, despite opposition by traditional leaders. In the meantime, the SAG has compensated for this lack of targeted legislation, and for its limited financial and human resources, by working with the USG, EU, IOM, and local NGOs. This enthusiastic embrace of assistance already has improved South African law enforcement's ability to investigate and prosecute traffickers under existing laws, bolstered public awareness, and expanded the resources provided to victims.
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